

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

ALLEN BEASLEY,

Petitioner,
VS.

RICK THALER,

Respondent.

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CIVIL ACTION NO. C-10-400

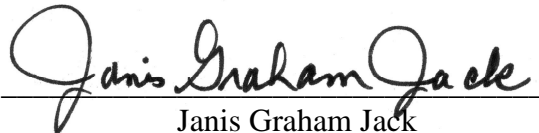
ORDER ADOPTING MEMORANDUM AND RECOMMENDATION

On April 14, 2011, United States Magistrate Judge B. Janice Ellington signed a Memorandum and Recommendation recommending that the respondent's motion for summary judgment (D.E. 24) be granted and the petitioner's cause of action be dismissed with prejudice because the unexhausted claims are procedurally barred and neither his exhausted nor unexhausted claims have merit. The Memorandum and Recommendation recommended further that a Certificate of Appealability be denied. A copy of the Memorandum and Recommendation was mailed to petitioner with a card to be returned indicating his receipt of the mailing. The card has not been returned by petitioner nor has the mailing been returned by the U.S. Post Office as undeliverable. Therefore, seeing no objection to this recommendation by either party and having now reviewed the recommendation, this Court hereby adopts as its own the Memorandum and Recommendation as the decision of the Court. Accordingly, it is

ORDERED that respondent's motion for summary judgment is granted and petitioner's cause of action is dismissed with prejudice. Certificate of Appealability is denied.

The clerk shall enter this order and provide a copy to all parties.

SIGNED and ORDERED this 7th day of June, 2011.



Janis Graham Jack
Senior United States District Judge

